

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA
THIRD DIVISION**

IN RE:

CH. 13 BKY NO: 02-92637

ROY A. EPPELAND AND
CONNIE M. EPPELAND,

RESPONSE

DEBTOR(S).

TO: U.S. Trustee, Chapter 13 trustee and all parties in interest entitled to notice under Local Rule 3015-2.

1. Debtors, by and through their undersigned attorney of record and pursuant to Local Rule 9013-2(b), interpose this Response in opposition to the Notice of Hearing and Motion for Relief from Stay filed by DaimlerChrysler Services North America, LLC (hereinafter "creditor"), a secured creditor in the above-captioned Chapter 13 bankruptcy case. Hearing on this matter is set for Wednesday, October 6, 2004 at 19:30 a.m. before the Hon. Dennis D. O'Brien, Judge of Bankruptcy Court in Courtroom 228A, United States Courthouse, 316 North Robert Street, Saint Paul, MN 55101.
2. The creditor's motion relates to a 1999 Ford F-250 pickup truck. The creditor contends that it has not received payment from the chapter 13 trustee and that the debtors have not paid the chapter 13 trustee for several months. The creditor further asserts that such constitutes good cause for relief from stay and that the debtors have no equity in the vehicle.
3. As the creditor's own pleadings indicate, the debtors do have equity in the collateral because the value of the same is \$14,075.00 and the amount owed against it is \$11,377.22. Therefore, the debtors do have equity in the collateral.
4. The debtors, to date, have paid a total of \$12,100.00 to the chapter 13 trustee. They acknowledge that they are presently \$2,400.00 delinquent. However, the circumstances causing the delinquency have been remedied and the debtors will be able to cure the plan arrearage within the next two weeks as they have refinanced their homestead and have obtained additional cash. The debtors were working on a home and did not get paid the \$11,000.00 they were owed. They are in the process of filing a mechanics lien against the property to secure said payment. On another project, they had cost overruns in the amount of \$9,800.00 that they had to cover out of their own resources. The debtors are presently completing a job for which they stand to be paid \$18,000.00 within the next

two weeks. In short, the debtors have the present ability to cure their plan delinquency and the trustee and creditor will begin receiving payments once more.

WHEREFORE, debtors assert that said response is premised upon all of the files and records available to the Court and request that the Court deny the motion for relief from stay in all respects and for such other and further relief as the Court deems just and equitable in the premises.

Respectfully submitted this 1ST day of October, 2004.

ESKENS, GIBSON & BEHM, LAW FIRM CHTD.

/s/ Stephen J. Behm
Stephen J. Behm
115 East Hickory Street, Suite 200
P.O. Box 1056
Mankato, MN 56002-1056
Telephone: (507) 345-5500
Attorney ID #263758

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

IN RE:

BKY. NO. 02-92637

ROY A. EPPELAND AND
CONNIE M. EPPELAND,

**UNSWORN CERTIFICATE
OF SERVICE**

DEBTOR(S).

I, Stephen J. Behm, attorney with Eskens, Gibson & Behm Law Firm, Chtd., 115 East Hickory Street, Suite 200, P.O. Box 1056, Mankato, MN 56002-1056, declare that on October 5, 2004, I mailed copies of the attached **RESPONSE** by first class mail postage prepaid and via facsimile transmission to each entity named below at the addresses stated below for each entity.

Michael J. Farrell, Chapter 13 trustee, P.O. Box 519, Barnesville, MN 56514.

U.S. Trustee, 1015 U.S. Courthouse, 300 South Fourth Street, Minneapolis, MN 55415.

Roy A. Eppeland and Connie M. Eppeland, 1104 3rd Street North, St. James, MN 56081.

Riezman Berger P.C., 7700 Bonhomme, 7th Floor, St. Louis, MO 63105.

All creditors on the debtors' creditor matrix (See attached list).

Dated: this 5TH day of October, 2004.

ESKENS, GIBSON & BEHM LAW FIRM, CHTD.

/s/ Stephen J. Behm
Stephen J. Behm, #263758
Attorney for Debtor
115 East Hickory Street, Suite 200
P.O. Box 1056
Mankato, MN 56002-1056
Telephone: (507) 345-5500